(3)

(1) Single Bench

IN THE HIGH COURT OF JUDICATURE AT BILASPUR (C.G.)

Writ Petition NO. 2702 /2006 (S.B.)

PETITIONER : Dallichand Jain
aged about 38 years,
S/o. Premraj Jain, R/o. Village
Gota, Tah. Dhamdha, District
Durg (C.G.)

VERSUS

RESPONDENT :1 State of Chhattisgarh
Through Secretary
Panchayat & Social Welfare
Department, D.K.S. Bhawan
Raipur (C.G.)

2. Gram Panchayat Gota
Tahsil : Dhamdha, District Durg
(C.G.)
Through : Secretary

3. The Collector
Durg, District Durg (C.G.)

4. Additional Collector
Durg, District Durg (C.G.)

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R.R. No. 8375/06
Presented by Shri ... Dharma
dated 30/5/06

OATH COMMISSIONER
APARNA MALVIYA
CG-2073/96
Bilaspur Chhattisgarh

WRIT PETITION U/A 226/227 OF THE CONSTITUTION OF INDIA

(27)

XI-HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक WP No. 2702/ **सन् 2006**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

16.6.2006

Shri H.V. Sharma, Advocate for the petitioner.

Shri Ashutosh Singh Kachhawaha, Government Advocate for respondents No.1, 3 & 4.

Heard.

By this writ petition under Article 226/227 of the Constitution of India the petitioner has questioned the legality, propriety and correctness of no confidence resolution dated 13.3.2006 (Annexure P-3) passed by the members of Gram Panchayat, Gota and also reference order dated 26.4.2006 (Annexure P-1) passed by the Additional Collector, Durg.

Brief facts of the case, as mentioned in writ petition, are that the petitioner was the elected Sarpanch of Gram Panchayat Gota consisting of 13 members of Panchayat and Sarpanch. Members of the Panchayat moved an application before the prescribed authority for calling meeting of members of Panchayat for consideration of no confidence motion against the petitioner, on which the prescribed authority issued notice on 6.3.2006, fixed the meeting on 13.3.2006 at 11 a.m. at Gram Panchayat Bhawan, Gota and accordingly, no confidence motion was passed against the petitioner as per proceedings Annexure P-3. The petitioner raised dispute regarding validity of the proceedings of no confidence motion and therefore, the dispute was referred to respondent No.4-Collector. The petitioner has challenged the validity of no confidence motion on the ground that the notice was not dispatched to him before seven days of the meeting of no confidence motion and secondly the petitioner was not given opportunity to speak during the no confidence motion.

(28)

XI-HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

-2-

The Additional Collector has not considered the objections raised by the petitioner and upheld the no confidence motion. As such, the no confidence motion was not passed in accordance with M.P. Panchayat (Gram Panchayat Ke Sarpanch Tatha Up-Sarpanch, Janpad Panchayat Tatha Zila Panchayat Ke President Tatha Vice-President Ke Virudh Avishwas Prastav) Niyam, 1994 (hereinafter shall be referred as 'Rules of 1994')

I have heard learned counsel for the petitioner at length and perused the record.

The main ground raised by Shri Sharma is that in compliance of sub-rule (3) of Rule 3 of Rules of 1994 seven days notice was not despatched to the petitioner and other members of Panchayat. Second ground raised by Shri Sharma is that the petitioner was not ~~been~~ given opportunity to speak before the confidence motion meeting was carried out.

Having heard learned counsel for the petitioner, I have perused the notice (Annexure P-2), which, as per record, was despatched to the petitioner on 6.3.2006 under Sr. No.447.

Sub-rule (3) of Rule 3 of Rules of 1994 contemplates that notice of such meeting specifying the date, time and place thereof shall be caused to be desptached by him through the Secretary of the Gram Panchayat or Chief Executive Officer of the Janpad or Zila Panchayat, as the case may be, to every member of the Panchayat concerned seven days before the meeting. Therefore, the requirement of Rule is that the notice must be desptahced 7 days before the meeting.

XI-HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	In this case, the meeting was fixed on 13.3.2006 and notice was desptached on 6.3.2006, thus, it is clear that the notice was despatched 7 days before the meeting, as such I do not find any substance in this argument. As far as second argument of learned counsel for the petitioner that the petitioner was not allowed to speak at the meeting of no confidence motion is concerned, I have perused the proceedings of meeting in which it has been clearly mentioned that at the meeting no confidence motion was moved by Up-Sarpanch Sant Kumar, same was seconded by Mohar Singh, Ward Panch, thereafter discussion was held on the motion and Sarpanch Dulichand was given opportunity to speak against the no confidence motion. Therefore, in presence of this document, which was reduced into writing, in the presence of Naib Tehsildar, it cannot be said that the petitioner was not given opportunity to speak at the meeting of no confidence motion. No other ground has been raised in this petition calling in question the no confidence resolution, therefore, I do not find any substance in this writ petition, same is liable to be dismissed and it is accordingly dismissed. **Sd/-** **L.C.Bhadoo** **Judge**	

Roshan/-